

1 UNITED STATES DISTRICT COURT

2 FOR THE

3 DISTRICT OF MINNESOTA

4

5 C.A. No. 16-cv-1054 (WMW/DTS)

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7 FAIR ISAAC CORPORATION,)

8 Plaintiff)

9 v.)

1 0 FEDERAL INSURANCE COMPANY AND ACE)

1 1 AMERICAN INSURANCE COMPANY,)

1 2 Defendants)

1 3 -----

1 4 CONFIDENTIAL TRANSCRIPT

1 5 ATTORNEYS' EYES ONLY

1 6

1 7 DEPOSITION OF MICHAEL SAWYER

1 8 October 2, 2018

1 9 Courtyard Marriott

2 0 35 Foxborough Boulevard

2 1 Foxborough, Massachusetts

2 2

2 3 *****

2 4 Court Reporter: Amie D. Rumbo

EXHIBIT
21

Michael Sawyer - CONFIDENTIAL - ATTORNEYS' EYES ONLY - 10/2/2018
Fair Isaac Corporation vs. Federal Insurance Company

1	Q. Okay. Would it have been a regular	1	A. I do not know.
2	practice to have periodic discussions about	2	Q. Now, were you, at that time,
3	particular client accounts in which you would send	3	familiar with the actual license and the
4	all various license agreements along with the most	4	amendments that Chubb had with FICO?
5	recent public information about the client?	5	A. I cannot be certain if I had
6	A. No.	6	reviewed them prior to this meeting or not. So I
7	Q. So this would not have been	7	can't say yes or no to that question.
8	something that was done, say, on a quarterly basis	8	Q. Did you have any understanding as
9	or an annual basis, right?	9	to the -- at that time as to the geographical
10	A. No, it would not.	10	scope of the FICO license with Chubb?
11	Q. So instead, the reason for this	11	A. Not that I can recall. At that
12	would have been to have a discussion about a	12	point in time, it would have been the client
13	particular project; is that fair?	13	partner's responsibility for managing that. So
14	MR. HINDERAKER: Objection. Lack	14	Ian Brodie would have been the client partner at
15	of foundation.	15	that time and that would be in his responsibility.
16	A. I do not recall the genesis for	16	Q. Now, were you familiar at that time
17	this meeting, and it would be speculating to	17	or did you familiarize yourself with the Chubb
18	determine why I sent this out.	18	software license and the amendments to that
19	Q. Right. And I'm not asking you to	19	license?
20	speculate, but would you periodically send out, at	20	A. I most likely did. FICO stores
21	the request of the contract partner, the various	21	their contracts separately in the contracts
22	software licenses for a particular account and the	22	library based upon, you know, each executable
23	most recent client information in order to discuss	23	agreement, and so the three contracts that you
24	a new project or an existing project?	24	provided here in Exhibit 73 would have been stored
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1	A. That -- yes. So, you know, if	1	separately within our contract system. And based
2	there was a question, a new project, dialogue that	2	on that, you know, I can't be certain that I did
3	the client partner would have with the account,	3	trace everything back through all the separate
4	yes, it would be in my scope of responsibility to	4	contracts. You know, it's most likely I would
5	coordinate a discussion on behalf of that client	5	have gone and read the amendment, too, right, as
6	partner and to, you know, gather relevant	6	the most recent to reflect the status of the
7	materials internally to support those discussions.	7	relationship. So I cannot be certain that I went
8	Q. Okay. And would there have been	8	back and read the full 17 pages of the original
9	any other reason to have sent out all of the	9	agreement.
10	software licenses for a particular client and the	10	Q. So are you familiar with this
11	most recent information about that client other	11	software license and maintenance agreement?
12	than to discuss either a new project or a pending	12	A. Generally, yes.
13	project?	13	Q. Okay.
14	A. It's possible, but I think most	14	A. Not the specifics as it pertains to
15	likely it was to discuss a project or an inquiry	15	the unique language for Chubb.
16	from the client.	16	Q. Do you recall, at that time, when
17	Q. Okay. Fair enough. And you don't	17	there was a discussion about a plan for Chubb
18	recall a particular project that was discussed in	18	Europe any internal discussions about the scope of
19	connection with this e-mail; is that fair?	19	this software license and maintenance agreement?
20	A. I do not.	20	A. I do not. You know, looking at the
21	Q. Do you see the reference to a plan	21	attendees on that list, Ian Brodie was the client
22	for Chubb Europe?	22	partner who was responsible for that. Russ
23	A. Yes, I see that.	23	Schreiber was the client partner when the license
24	Q. What was the plan for Chubb Europe?	24	agreements were sold to Chubb. So I was -- I
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<p>1 believe I was mostly a coordinator in this effort.</p> <p>2 Those two individuals were the authoritative</p> <p>3 figures on the relationship with Chubb.</p> <p>4 Q. Was it your understanding that the</p> <p>5 basic FICO software license excluded client</p> <p>6 affiliates from using the license?</p> <p>7 MR. HINDERAKER: Could I ask a</p> <p>8 clarifying question? When you say basic, are</p> <p>9 you talking about the license with Chubb or</p> <p>10 just --</p> <p>11 MR. FLEMING: In general.</p> <p>12 MR. HINDERAKER: Just a general.</p> <p>13 A. I'm not aware of what our standard</p> <p>14 language was related to affiliates, although it</p> <p>15 was a common item for negotiation with clients in</p> <p>16 general.</p> <p>17 Q. What was a common part of</p> <p>18 negotiation?</p> <p>19 A. Determining the definition of</p> <p>20 affiliates within the contracts.</p> <p>21 Q. Okay. Do you recall any</p> <p>22 discussions in 2008 as to whether the FICO license</p> <p>23 agreement permitted use by a Chubb affiliate in</p> <p>24 Europe?</p>	<p>1 anybody else?</p> <p>2 A. Ian Brodie and Russ Schreiber.</p> <p>3 Q. How had they interpreted that</p> <p>4 clause; what was the discrepancy that you just</p> <p>5 referenced?</p> <p>6 MR. HINDERAKER: Which question do</p> <p>7 want? Objection. And multiple questions.</p> <p>8 Which question do you want answered?</p> <p>9 A. Can you clarify your question,</p> <p>10 please?</p> <p>11 Q. What discrepancy are you</p> <p>12 referencing?</p> <p>13 A. The extent to which the enterprise</p> <p>14 license in amendment two applies from a territory</p> <p>15 perspective.</p> <p>16 Q. What do you mean by that?</p> <p>17 A. I can't speak to, you know, Ian or</p> <p>18 Russ's interpretation of the agreement; however,</p> <p>19 based on knowledge that I had, you know, in</p> <p>20 working with Henry Mirolyuz and the team at Chubb,</p> <p>21 that there may have been some use of the products</p> <p>22 for Chubb businesses outside the United States.</p> <p>23 And so when I read the agreements, went back</p> <p>24 through the territory, I, you know, highlighted</p>
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1 MR. HINDERAKER: Same clarifying

2 question. Are we talking about the Chubb

3 license or just general licenses now?

4 MR. FLEMING: This license.

5 MR. HINDERAKER: Okay. Thank you.

6 A. No, I do not recall any discussion

7 that took place in 2008.

8 Q. Do you recall any discussions about

9 that topic while you were at FICO?

10 A. I do.

11 Q. What do you recall?

12 A. I recall, at some point after I

13 assumed responsibility as client partner for

14 Chubb, reviewing the agreements and at that point

15 in time, I realized the territory clause within

16 the original software license service agreement.

17 And you know, it clarified for me, you know, the

18 scope of amendment two based on that territory

19 clause. And it highlighted for me, you know, a

20 potential discrepancy in the way that my

21 predecessors had, you know, interpreted that

22 clause.

23 Q. And when you're talking about your

24 predecessors, are you referencing Ian Brodie or

1 that to Russ Schreiber. I can't be certain on the

2 date.

3 Q. So when you say you highlighted

4 that to Russ Schreiber, are you referencing an

5 e-mail that you sent him at that time?

6 A. No. It would have been in

7 discussion.

8 Q. Was it ever memorialized in an

9 e-mail?

10 A. I couldn't recall for the nine

11 years that I worked at FICO if I wrote an e-mail

12 or not, but most likely it was in discussion with

13 Russ.

14 Q. And when was that discussion?

15 A. So it would be during the period of

16 time that I was a client partner responsible for

17 the Chubb account. So it was somewhere between

18 March 2010 and February 2014. My guess is it's in

19 that period of time when I was responsible for the

20 account.

21 Q. So in responding to that question,

22 you were referencing the LinkedIn document, right?

23 A. Yes.

24 Q. So you don't have a separate

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